

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 10:00 A.M. Present: Honorable Thomas A. Harris, Acting Presiding Justice; Honorable Rebecca A. Wiseman, Associate Justice; Honorable Brad Hill, Associate Justice; and Leisa V. Biggers, Clerk/Administrator, by Rosemary Heredia, Assistant Deputy Clerk.

F049335 Pellerin v. Kern County Employees' Retirement Association

Cause called and argued by Richard E. Elder, Esq., counsel for appellant and by Jennifer Esquivel Zahry, Deputy County Counsel, counsel for respondent.

Cause ordered submitted.

Court recessed until Tuesday, November 14, 2006 at 1:30 P.M.

The court reconvened in its courtroom at 1:30 P.M. Present: Honorable Steven M. Vartabedian, Acting Presiding Justice; Honorable Herbert I. Levy, Associate Justice; Honorable Gene M. Gomes, Associate Justice; and Leisa V. Biggers, Clerk/Administrator, by Rosemary Heredia, Assistant Deputy Clerk.

F047999 Delaney et al. v. Delgado et al.

Cause called and argued by Todd W. Baxter, Esq., counsel for appellants and by John Hollenback, Esq., counsel for respondents.

Cause ordered submitted.

F049499 Tulare Co. Dept. of Child Support Svcs v. Torres

Cause called and argued by John Hollenback, Esq., counsel for appellant. Mary Dahlberg, Esq., Deputy Attorney General, counsel for respondent waived oral argument.

Cause ordered submitted.

At this point Vartabedian, Acting P.J., Levy, J. and Gomes, J. leave the bench; they are replaced by Harris, Acting P.J., Wiseman, J. and Cornell, J.

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F049063 Osijo v. Seigny et al.

Cause called and argued by Adebowale Osijo, appellant in propria persona and by Enoch Wang, Esq., counsel for respondent Roger A. Seigny, etc. et al. and by Georgia Ann Michell-Langsam, Esq., counsel for respondent Georgia Michell-Langsam and by Robert M. R. Bodzin, Esq., counsel for respondent Burnham Brown.

Cause ordered submitted.

Court recessed until Wednesday, November 15, 2006 at 1:30 P.M.

F049102 People v. Dailey

The judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048923 People v. Muldrow

Defendant's conviction not being at issue, the judgment of conviction is affirmed. His judgment of sentence, however, is vacated and the matter is remanded to the trial court to determine if defendant is eligible for probation pursuant to section 1210.1, subdivision (a), and in accordance with the views expressed in this opinion. If defendant is found eligible, then he is entitled to the grant of Proposition 36 probation. If he is found ineligible, based on factors present at the time of his resentencing and based on the substantive law in effect at the time of his original sentencing, then the court is directed to reinstate the judgment of sentence. Vartabedian, Acting P.J.

We concur: Levy, J.; Gomes, J.

[CERTIFIED FOR PARTIAL PUBLICATION]

F049477 People v. Hernandez

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

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F049477 **People v. Hernandez**
The judgment is affirmed.
By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F049636 **In re Charles S., a Minor**
Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the calendar date heretofore set is vacated and the case is submitted for decision.

F051048 **Carol T. v. The Superior Court of Kings County; Kings County Human Services Agency**
Let an extraordinary writ issue directing respondent court to vacate its order of August 17, 2006, terminating reunification services and setting 366.26 hearing. Respondent court is further directed to conduct a new 12-month review hearing and enter a new order reinstating reunification services for an additional six months.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F049675 **Jenkins v. Nestle USA, Inc.**
Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the case is submitted for decision.

IN THE

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IN AND FOR THE

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F049675 Jenkins v. Nestle

The order granting Nestle's motion for summary judgment is affirmed. Each side shall bear its own costs on appeal.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F049636 In re Charles S., a Minor

The judgment is affirmed with modifications.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F046435 The People v. F.J.

The matter is remanded to the trial court with directions. Kane, J.

We concur: Levy, Acting P.J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]